

APPLICANTS: Bacus *et al*
U.S.S.N.: 10/735, 118

- (a) an antibody that binds HER-2 polypeptide,
and one or more of the following:
 - (b) an antibody that binds phosphorylated AKT polypeptide;
 - (c) an antibody that binds phosphorylated S6 ribosomal polypeptide;
 - (d) an antibody that binds EGFR polypeptide;
 - (e) an antibody that binds HER2 polypeptide;
 - (f) an antibody that binds NDF polypeptide; and
 - (g) an antibody that binds phosphorylated ERK polypeptide.
109. (new) The kit of claim 108, wherein the antibody of (b) is specific for AKT polypeptide having a phosphorylated serine residue at position 473 in SEQ ID NO: 1; wherein the antibody of (c) is specific for S6 ribosomal polypeptide having a phosphorylated serine residue at position 235 in SEQ ID NO: 2; and/or antibody of (f) is specific for EKT polypeptide having a phosphorylated threonine residue at position 202 and a phosphorylated tyrosine at position 204 in SEQ ID NO: 3.
110. (new) The kit of claim 108, wherein the kit further comprises at least one secondary antibody that binds to an antibody of subpart (a) through (g).

REMARKS

Applicants have voluntarily canceled original claims 1-83 and replaced them with new claims 84-110 in order to focus prosecution on certain preferred subject matter and to more clearly define the features and characteristics of the claimed subject matter. Upon entry of the present amendment, claims 84-110 are presently pending.

New claims 84-88 are drawn to a preferred method for predicting whether a mammalian tumor is likely to respond to a HER-2 directed therapy based on an increase and/or decrease in the level of expression and/or phosphorylation of certain preferred markers. Claims 84-88 are

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drawn to similar subject matter as original claims 1, 2, 6-8, 9, 10, 16, 33-34, 57 and 77. Support for new claims 84-88 can be found throughout the specification and claims as originally filed, for example: page 19, lines 8-20; table 6 on page 33; page 21, line 30 to page 22, line 13 and; page 20 lines 25-29. These amendments do not introduce new matter.

New claims 89-107 are drawn to a method for predicting whether a mammalian tumor is likely to respond to a HER-2 directed therapy based on an increase and/or decrease in the level of expression and/or phosphorylation of certain preferred markers. Claims 89-107 are drawn to similar subject matter as original claims 1, 2, 9-10, 21-22 and 25-80. Support for new claims 89-107 can be found throughout the specification and claims as originally filed, for example: page 19, lines 8-20; page 20 lines 5-20; table 6 on page 33; page 21, line 30 to page 22, line 13; tables 5 and 6 on page 33; page 21, lines 11-15; page 20 lines 25-29. These amendments do not introduce new matter.

New claims 108-110 are drawn to a kit for predicting whether a mammalian tumor is likely to respond to a HER-2 directed therapy. Claims 108-110 are drawn to similar subject matter as original claims 81-83. Support for new claims 108-110 can be found throughout the specification and claims as originally filed, for example: page 21, line 30 and ending on page 22, line 13. These amendments do not introduce new matter.

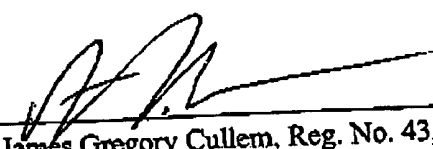
Applicants believe no fees are due in connection with the present filing. However, the Commissioner is hereby authorized to charge any additional fees that may be due, or credit any overpayment of the same, to Deposit Account No. 50-1774, Ref. No. CST-213. The present

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U.S.S.N.: 10/735, 118

claims are believed to be in condition for immediate allowance. Early and favorable consideration leading to prompt issuance of these claims is earnestly solicited. If there are any questions regarding these amendments, the Examiner is requested to call the undersigned attorney at the telephone number provided.

Respectfully submitted,

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